



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

Via U.S. Postal Service and Electronic Mail
Certified Mail Receipt No. 7000 0520 0021 6107 8339

July 2, 2010

AIG Retirement Services, Inc.
In care of DST Realty Advisors
Douglas Tymis
Agent for AIG Retirement Services, Inc.
6730 North Scottsdale Road
Suite 250
Scottsdale, Arizona 85253

**Re: Western Technologies Inc. June 14, 2010 Proposed Schedule for Cap Construction,
Trench Area, Washington Park Corporate Center Lot 3, Trillium Residential 4400
Block East Washington St. Phoenix, Arizona – Self Implementing PCB Cleanup
Under 40 CFR 761.61(a)**

Dear Mr. Tymis:

Thank you for the June 14, 2010 letter and schedule that Western Technologies Inc. (WTI) submitted on your behalf responding to the U.S. Environmental Protection Agency Region 9 (USEPA) letter dated July 14, 2009. USEPA's letter requested that AIG submit a schedule to (1) construct the cap for the Trench Area and an area west of the Trench, (2) prepare a cap maintenance plan, and (3) prepare and submit a draft deed notice for USEPA review. USEPA is approving AIG's proposed June 14, 2010 schedule under the Toxic Substances Control Act (TSCA) regulations in 40 CFR 761.61(a) (self implementing cleanups).

USEPA hereby approves with the conditions established below the design proposed in the schedule for construction of the earthen cap. On June 25, 2010 WTI clarified the cap described in the schedule is a temporary earthen cap and not the final cap. In this approval the term "temporary earthen cap" means the compacted earthen cap plus the protective membrane and compacted soil layer atop the membrane. In this approval, the term "cap" means the compacted earthen cap without the two protective layers.

USEPA is approving the design and construction of the temporary earthen cap under the TSCA regulations in 40 CFR 761.61(c) (risk-based disposal approvals) and 40 CFR 761.61(a)(7), respectively. The brief construction details for the temporary earthen cap provided in WTI's schedule is not clear regarding the accessibility of the cap (below the two protective layers, membrane and compacted soil) for inspection and repairs.

As clarified by WTI, the temporary earthen cap includes two protective layers to prevent desiccation of the cap due to arid conditions in Phoenix. The protective layers include: (1) a protective membrane (e.g., 6-mil polyethylene liner) that will be installed atop the compacted earthen cap and (2) a layer of compacted soil that will cover this protective membrane.

WTI conducted site characterization and PCB cleanup at the Washington Park Corporate Center Lot 3 site (including the Trench Area) in accordance with the TSCA requirements in 40 CFR 761.61(a) (self implementing cleanups). Within the Trench, PCBs remain at 2.9 (B-11), 1.6 (B-11), 1.2 (T6-15), 4.1 (T7-15), and 6.8 mg/Kg (T8-15); and immediately west of the Trench, PCBs remain at 1.4 (B-14) and 1.3 mg/Kg (B-15)¹.

This conditional approval does not relieve the owner of the property from complying with all other applicable federal, state, and local regulations and permits. Departure from the approval conditions without prior written permission from USEPA may result in the commencement of proceedings to revoke this approval, and / or an enforcement action. Nothing in this approval bars USEPA from imposing penalties for violations of this approval or for violations of other applicable TSCA PCB requirements or for activities not covered in this approval.

USEPA Conditions of Approval for Cap Construction and Design

USEPA's conditions of approval modify the construction schedule, design and details for construction of the temporary earthen cap.

- a. The temporary earthen cap must encompass the Trench and the area outside of and west of the Trench. See USEPA's July 14, 2009 letter.
- b. The soils to construct the cap from 19 feet below ground surface (bgs) to 5 feet bgs and the protective soil layer atop the membrane must meet the requirements in 40 CFR 761.61(a)(7). Construction of the temporary earthen cap must meet the requirements in 40 CFR 264.310(a).
- c. AIG will inspect the temporary earthen cap (including the cap, HDPE membrane, and soil protective layer) and conduct maintenance and repairs in accordance with a schedule to be included in the temporary earthen cap maintenance plan that AIG will submit for USEPA approval. This schedule must reflect the requirement in 40

¹ PCBs remain in soils at 19 feet below ground surface within the Trench Area in sampling grids T6-15, T7-15, and T8-15 at 1.2, 4.1, and 6.8 mg/Kg, respectively. PCBs remain within the Trench Area at 2.9 mg/Kg (B-11, 25 feet below existing surface grade [ft. bgs]) and 1.6 mg/Kg (B-11, 31 to 31.5 ft bgs)). PCBs remain in soils in an area outside of and west of the Trench Area at 1.4 mg/Kg (B-14, 26 to 26.5 ft bgs), and 1.3 mg/Kg (B-15, 36 to 36.5 ft bgs).

CFR 761.61(a)(7) for repairs to be completed within 72 hours after discovering a problem with the temporary earthen cap.

- d. According to WTI, the site has not been graded to final elevation and when such grading occurs, the temporary earthen cap may be up to two (2) feet below the post-grading ground elevation. Therefore, prior to grading, the location of the temporary earthen cap must be surveyed accurately and such survey coordinates included in the deed notice to the property.

During building construction, a portion of or the entire temporary cap will be covered by the building's concrete slab. Disturbance of the temporary earthen cap or a portion thereof may be necessary to facilitate construction of the concrete slab. Such slab is planned to have a minimum thickness of six (6) inches and qualifies as the final cap for the entire area or a portion thereof covered by the temporary earthen cap. AIG must meet the requirements in 40 CFR 761.61(a)(7) for a concrete cap when constructing the final cap.

In context to the future redevelopment, if a portion of the temporary earthen cap is used as a landscape area (e.g., interior garden), that portion of the earthen cap (including membrane and top compacted soil protective layer) will not be disturbed and will become the final earthen cap. See Condition 7 in USEPA's September 22, 2008 conditional approval letter.

- e. The final earthen cap and final concrete/earthen hybrid cap must be maintained in perpetuity as required in 40 CFR 761.61(a)(8) and USEPA's July 14, 2009 letter to AIG.
- f. The deed notice must include a brief description of the final cap design and construction details as well as the maintenance plan for the temporary earthen cap, final earthen cap, and / or final concrete/earthen hybrid cap. Among other information, the maintenance plan must include a schedule for routine inspections, maintenance, and repair of the temporary and final caps.
- g. The PCB cleanup in Lot 3 is not considered complete until construction of the final earthen cap and / or final concrete/earthen hybrid cap are completed, a cap maintenance plan (including inspections and repairs) is submitted to USEPA for approval, and a PCB cleanup completion report is submitted to USEPA. The PCB cleanup in Lot 3 will be considered complete upon receipt of a PCB cleanup report for Lot 3 that documents completion of the final cap (earthen cap and / or concrete/earthen hybrid cap). The cleanup report must meet the requirements in 40 CFR 761.61(a)(9) and be submitted within 30 days after completing construction of the final caps.

USEPA Approval of Cap Construction
Washington Park Lot 3 TSCA PCB Cleanup
July 2, 2010

Finally we take this opportunity to clarify that under Conditions 7 and 8 in USEPA's September 22, 2008 approval letter, the reference to "761.61(b)(1)(ii) through (b)(1)(v)" is incorrect and should be "761.75(b)(1)(ii) through (b)(1)(v)."

We appreciate WTI submitting the schedule for cap construction and submission of a draft deed notice for review (including the cap maintenance plan) and brief design details for cap construction.

We look forward to continue working with WTI on the Washington Corporate Center project. Please call Carmen Santos of my staff at 415.972.3360 with any questions regarding this letter. Thank you.

Sincerely,



Arlene Kabei
Associate Director
Waste Management Division

Cc: David Regonini, Western Technologies, Inc.
Humberto Preciado, Western Technologies, Inc.
Ivan Lieben, USEPA R9
Steve Armann, USEPA R9
Carmen Santos, USEPA R9